

**BEFORE THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

UNITED STATES OF AMERICA,

Plaintiff,

v.

OAKLEY PHARMACY, INC., *et. al*,

Defendants.

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**Case No. 2:19-00009
JUDGE TRAUGER**

MOTION TO CONTINUE PRELIMINARY INJUNCTION HEARING

Comes now Defendant, John Polston (“Mr. Polston”), by and through counsel, and would move this Honorable Court to continue the preliminary hearing in this matter for a period of approximately 60 days. In support of the foregoing, Mr. Polston would state as follows:

1. On February 7, 2019, this Court entered a temporary restraining order (“TRO”) in this cause affecting the Defendants’ ability to dispense controlled substances and with regard to the retention of certain records. (Doc. No. 10).

2. The original hearing on the TRO was reset by agreement of the parties, and the current date for hearing is scheduled for March 27, 2019 at 9:30 a.m. (Doc. No. 37).

3. Counsel for Mr. Poston and the government have had ongoing discussions about the status of injunctive relief, but the Defendant needs additional time to investigate the allegations set forth in the application for the TRO and a prospective preliminary injunction, especially since the TRO affects Mr. Polston’s livelihood.

4. The government has no opposition to a continuance of the injunction hearing.¹

¹ This was the understanding of counsel as per conversations with the Office of the United States Attorney on March 15, 2019.

5. In addition, counsel understands that lead attorney for Mr. Thomas Weir, Oakley Pharmacy, Inc., and Xpress Pharmacy of Clay County, LLC has an active conflict with his trial calendar and, at current, cannot attend a hearing on March 27, 2019, and he would be filing a motion to continue as well.² However, since certain deadlines are looming related to the injunction hearing, Mr. Polston believes it is best to address the date of the injunction hearing immediately. Accordingly, counsel for Mr. Polston is of the understanding those particular defendants would not oppose a continuance.

6. Mr. Polston, by filing this motion, consents to an extension of the TRO until this matter may be heard.

WHEREFORE PREMISES CONSIDERED the Defendant would move this Honorable Court to continue the preliminary injunction hearing for a period of approximately 60 days.

RESPECTFULLY SUBMITTED this the **18th** day of **March, 2019**.

/s/ Michael R. Giaimo /
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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2019, I electronically filed and served with the Clerk of the Court using the CM/ECF system upon:

Donald R. Lorenzen
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² This is based on multiple conversations with co-counsel. However, there was no indication when counsel intended to address the conflict or if/when a motion to continue would be filed.

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/s/ Michael R. Giaimo _____/